



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,531	01/23/2004	John Topper	374-001U	9222

23429 7590 02/09/2005

GREGORY SMITH & ASSOCIATES  
3900 NEWPARK MALL ROAD, 3RD FLOOR  
NEWARK, CA 94560

EXAMINER
----------

OKEZIE, ESTHER O

ART UNIT	PAPER NUMBER
----------	--------------

3654

DATE MAILED: 02/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/763,531

Applicant(s)

TOPPER, JOHN

Examiner

Esther O. Okezie

Art Unit

3654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☒ Claim(s) 1 and 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/23/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 1 and 15 are objected to because of the following informalities: Least is spelled incorrectly in line 8 of claim 1, and in line 1 of claim 15. Also lowering is spelled incorrectly in line 10 of claim 15. Finally part b of claim 15 is missing. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 10 recites the limitation "said securing means" in line 13. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4,7,9-14 rejected under 35 U.S.C. 102(b) as being anticipated by Shields.

Art Unit: 3654

4. Regarding claim 1, Shields discloses an apparatus for lifting cargo comprising: a catch (figure 1) including a top panel (18), said top panel having a top surface, a bottom surface (figure 2) and at least one slot (34), said at least one slot comprising a confining end (44) and a receiving end (36) open to an entry hole in said top panel, a bob (figure 4) including weighted body (54), a shank (58) projecting from said weighted body, and a tether anchor (28) connected to said shank, said weighted body being insertable through said entry hole in said top panel, but not through said at least one slot, said at least one slot being sized to receive said shank, and a tether (30) attached to said tether anchor.

5. Regarding claim 2 Shields discloses the device of claim 1 comprising: a securing means for attaching said catch to said load to be moved (bevel 32 of plate 18 is butt welded unto floor of deck of the vessel; column 3, lines 32-36).

6. Regarding claim 3 Shields discloses the device of claim 1 wherein said entry hole in said top panel is positioned within a concave depression in said top panel (cutout hole 34 is positioned in concave cavity of plate 18; see figures 1 and 2).

7. Regarding claim 4 Shields discloses the device of claim 1 wherein said shank may be received in said slot, and said weighted body may contact said bottom surface of said top panel when said portable lifting device is used to lift an object (see figures 4 and 6).

8. Regarding claim 7 Shields discloses the device of claim 1 wherein said catch comprises a single piece of durable rigid material (see figures 1,2, and 6).

Art Unit: 3654

9. Regarding claim 9 Shields discloses the device of claim 1 comprising a means for securing said catch to an object to be lifted ((bevel 32 of plate 18 is butt welded unto floor of deck of the vessel; column 3, lines 32-36).
10. Regarding claim 10 Shields discloses the device of claim 1 wherein a securing means comprises at least one strap (rope 30 secures vessel; figure 6).
11. Regarding claim 11 Shields discloses the device of claim 1 wherein said at least one slot comprises four slots (see figure 1).
12. Regarding claim 12 Shields discloses the device of claim 1 wherein the weighted body comprises a durable rigid material (see figure 4).
13. Regarding claim 13, Shields discloses an apparatus for lifting cargo wherein said weighted body is cylindrical in shape (54).
14. Regarding claim 14 Shields discloses the device of claim 1 wherein anchor is sized to prevent passage through said entry hole (figure 4; column 4, lines 5-15).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 1-9,12-16 rejected under 35 U.S.C. 103(a) as being unpatentable over Leonard, Jr. et al in view of Loomis et al.

Art Unit: 3654

16. Regarding claim 1, Leonard discloses a twist lock apparatus for lifting cargo comprising: a catch (fitting 13) including a top panel, said top panel having a top surface, a bottom surface (figure 2) and at least one slot (15) open to an entry hole in said top panel, a bob (21) including weighted body (26), a shank (23) projecting from said weighted body, and a tether anchor (35) connected to said shank, said weighted body being insertable through said entry hole in said top panel, but not through said at least one slot, said at least one slot being sized to receive said shank, and a tether (41) attached to said tether anchor.

Leonard does not teach said at least one slot comprising a confining end and a receiving end. Loomis et al discloses a twist lock device for lifting cargo comprising corner fittings with slots for receiving a cylindrical weighted body of a twist lock anchor. The slot (125) is shown in figure 2 comprising a receiving end (133) and a confining end (39). It would have been obvious to one of ordinary skill in the art to modify the slot of the corner fitting of Leonard et al. to include a confining end for the weighted body of the twistlock in order to more securely hold a cargo vessel during transport.

17. Regarding claim 2 Leonard et al. discloses the device of claim 1 comprising: a securing means for attaching said catch to said load to be moved (corner fitting 13 is welded to cargo container 11).

18. Regarding claim 3 Leonard discloses the device of claim 1 wherein said entry hole in said top panel is positioned within a concave depression in said top panel (slot 15 is positioned in concave cavity of fitting 13; see figures 1-4).

Art Unit: 3654

19. Regarding claim 4 Leonard discloses the device of claim 1 wherein said shank may be received in said slot, and said weighted body may contact said bottom surface of said top panel when said portable lifting device is used to lift an object (see figures 3 and 4).

20. Regarding claim 5 Leonard discloses the device of claim 1 wherein said catch comprises at least one side panel (figure 2).

21. Regarding claim 6 Leonard discloses the device of claim 1 wherein said catch comprises at least four side panels (figure 2).

22. Regarding claim 7 Leonard discloses the device of claim 1 wherein said catch comprises a single piece of durable rigid material (see figures 2).

23. Regarding claim 8 Leonard discloses the device of claim 1 wherein said catch comprises a bottom panel (see figure 2).

24. Regarding claim 9 Leonard discloses the device of claim 1 comprising a means for securing said catch to an object to be lifted (corner fitting 13 is welded to cargo container 11).

25. Regarding claim 12 Leonard discloses the device of claim 1 wherein the weighted body comprises a durable rigid material (see figure 1).

26. Regarding claim 13, Leonard discloses an apparatus for lifting cargo wherein said weighted body is cylindrical in shape (26).

27. Regarding claim 14 Leonard discloses the device of claim 1 wherein anchor is sized to prevent passage through said entry hole (see figure 3 and 4).

Art Unit: 3654

28. Regarding claim 15 and 16 Leonard discloses the method of claims 15 and 16 for selectively moving a load between a low position and an elevated position the steps comprising:

- a. providing a portable lifting device comprising a catch including a top panel, said top panel having a top surface, a bottom surface and at least one slot, said at least one slot comprising a confining end and a receiving end open to an entry hole in said top panel, a bob including weighted body, a shank projecting from said weighted body, and a tether anchor connected to said shank, said weighted body being insertable through said entry hole in said top panel, but not through said at least one slot said at least one slot being sized to receive said shank, a tether attached to said tether anchor(figures 1-4);
- b. securing said catch to said load;
- c. lowering said bob to said catch and allowing said weighted body of said bob to pass through said entry hole;
- d. moving said shaft into one said slot;
- e. applying a vertical force to said tether causing said weighted body to contact said the bottom surface of said top panel; and
- f. adjusting a length of tether between a user and said tether anchor to raise or lower said load;
- g. lowering said load to a support surface;
- h. allowing said shaft to move in said slot toward said entry hole; and



Art Unit: 3654

- i. pulling said weighted body upward through said entry hole (see figures 1-8).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US-4,877,361; US-4,457,650, US-5,733,082, US-4,248,558.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Esther O. Okezie whose telephone number is (703) 305-0433. The examiner can normally be reached on Mon-Fri 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine A Matecki can be reached on (703) 308-2688. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 10/763,531

Page 9

Art Unit: 3654

EOO

*Kathy Matecki*

KATHY MATECKI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600